AN INTERESTING TALK ON COPYRIGHT

—SWAPNA DUTTA

The problem of copyright is one of the chief hassles faced by an author. It is also a subject about which most authors know very little. So we - the members of AWIC - were thrilled when we learnt that Dr. Sunder Raman would be giving us a talk on this important subject and also clarify our doubts regarding the same. In spite of the foul weather and the bitter cold, most of the members turned up for the meeting.

Dr. Sunder Raman started his talk by telling us that he was neither a lawyer nor a professional journalist but who, like many of us, had been a victim of copyright. He has had no formal training in the art of writing and owes his first book to the encouragement of his teacher. Writers, he told us, learn from experience. Most writers do not know about the Copyright Act or its exact provisions. Even those who have some idea about it are not familiar with the finer nuances of the Act. Each writer has his or her own experience in the matter vis-a-vis the publisher and the responses of his/her readers.

Speaking of the broad provisions of the Copyright Act, it comes under Constitutional Law. The Copyright Act was not taught earlier in the colleges but has now been added to the syllabus. Video recording has assumed great importance in the present era. In 1984, qualitative changes were introduced to the Copyright Act to prevent video piracy.

Copyright is a touchy issue for both writer and publisher alike. It is very usual to hear the publisher say 'your books are not selling' and for the author to assert that the sale has been wonderful or at least satisfactory. But the result in most cases is the same - i.e. poor or no royalty.

Copyright belongs legitimately to an author unless an agreement to the contrary has been signed. Unfortunately, there is a lot of misinformation in this matter. Copyright has not found a proper place as yet in the press laws. So the general tendency is to ignore the copyright laws. This is mainly because the writers are not conscious of their rights. It is really unfair and unfortunate that the Copyright Act has not been given the importance it deserves.

It is only fair that the author who does a lot of intellectual labour should be protected and that the same labour should not be used by another. The Copyright Act is based on two broad principles- (1) Original work must be protected (2) There should be a limited freedom to reproduce other people's work for the sake of progress and development i.e. reproducing classics and work of famous writers and poets. But ideas, information and news items cannot be protected under the copyright law. It is the particular literary *form* which can be protected, not the basic *idea*.

In the case of films, when the theme from a novel is reproduced, there are bound to be some differences because they are two different forms of the media. That being so, the very nature of form and treatment would be different. Catalogues and ready-reckoners (such as Muthuswami's handbooks) can also come under copyright because one cannot give out that information in the same format. Other examples are time-tables, dictionaries, reports of speeches and newspaper articles, charts and maps. In short, it is the expression of thoughts in particular words which can be protected - not the underlying idea in the book.

Children's books serve a dual purpose. They are educative and they are also interesting. At least, that is what they ought to be! The Copyright Act does not make any distinction with children's books, nor does it have any special provisions for the same. Sometimes children's books consist of compilations. But even compilation is a form of literary exercise and can come under copyright because it is a difficult task involving labour, skill and energy. But if the compilation does not call for either arrangement or any particular literary skill,

then it cannot come under the provision of copyright. Similarly, there is usually no copyright for words of advertisement, except in a few special cases.

The purpose and format are both very important in the Copyright Act. It ought to protect the interests of authors, illustrators, film-makers and the like. But the authors are very often side-lined and not given their due.

While there is no copyright for the typist or the stenographer, there is copyright for the computer-operator and the data-processer because both involve personal skill and technical knowhow. Translation, which is assigned to the translator, is considered to be literary work, and as such original. Translation comes under copyright too.

The Copyright Act was modified and amended in 1984. According to convention, copyright automatically protects an original work the moment it is created, whether it is registered under the Copyright Act or not. This provision has been misinterpreted at times. But registration under Section 45 is optional.

There is no copyright on the title of a book. Certain titles are used repeatedly by authors. For example, there are nearly twenty books having the same title of "The Indian Government and Politics". But a well known title like Nehru's "The Discovery of India" cannot be used by another. If one does, then the matter can be taken to court and proper damages demanded for the same.

Who is the owner of the copyright? If the author is working for a publisher, newspaper or a magazine and has signed a contract with the same, or is working as a consultant or has the work assigned to him, then the copyright rests with the publisher. In the case of published articles (in such cases only) the copyright rests with both author and the newspaper. Another writer can write on the same topic but it cannot be a mere imitation with identical treatment of ideas. An imitation or "copying" would fall under the Copyright Act.

The 1984 amendment was introduced to curb unauthorized video productions. Even the police can seize all pirated recordings and impose a fine of upto Rs. 50,000/-.

The copyright office is headed by the Registrar who maintains a registered record of original work and also performs judicial functions. But his work has not been properly evaluated as yet. What every author and illustrator needs to know is -

1. How the copyright board acts
2. What the provisions are
3. How copyright litigations are settled
4. Laws regarding copyright.

Dr. Sunder Raman also felt that there should be a separate tribunal to settle copyright problems. The illustrators should also take the help of the copyright office and maintain photocopies of their work. They should also sign a contract with the publisher, retaining the right to take back their illustrations if they need these for any reason.

But, as pointed out by Dr. Sunder Raman, in the final analysis, copyright is a problem to be sorted out between the author and the publisher. That being so, one cannot help wondering if the mere knowledge of the Copyright Act and its provisions can actually help matters.

India Extends the Term of Copyright

In India, the term of copyright in any literary, dramatic, musical or artistic work (other than a photograph), published within the lifetime of the author, used to last fifty years from January 1st of the year following the author's death.

Rabindranath Tagore died in the year 1941 and copyright of his published works was to expire on 31 December 1991. There had been numerous demands for according extended protection to his works in view of their national importance. Since it was not considered feasible and appropriate to extend the term of copyright in respect to one author alone, the Government of India reviewed the whole question of what should be the appropriate terms of copyright and decided to extend the term of copyright generally for all works protected by the Copyright Act from fifty to sixty years. This would, however, not apply to works which have already entered the public domain before 31 December 1991. The longer period of protection will also not extend to works originating in countries with shorter terms. Similarly, countries with shorter periods of protection will not be obliged to give longer protection to works by Indian authors.

India is not the only country which has extended the term of copyright. Some other countries, including Colombia, Austria, Germany, Israel, Brazil and Spain, have introduced longer terms. The European Community, considering the decisions of Austria and Germany, has recommended a longer term to EEC members for the sake of uniformity. WIPO is also considering a possible Protocol to the Berne Convention for an extended term of 70 years. The Indian decision may, therefore, be consistent with future world developments.